

IN THE MATTER OF

*

BEFORE THE

ELIZABETH L. MYERS

*

MARYLAND STATE

Respondent

*

BOARD OF PHYSICIANS

License Number: R02592

*

Case Number: 2219-0195B

* * * * *

CONSENT ORDER

On July 26, 2019, Disciplinary Panel B (“Panel B”) of the Maryland State Board of Physicians (the “Board”) charged **ELIZABETH L. MYERS**, Radiographer (the “Respondent”), License Number R02592, under the Maryland Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 14-5B-01 et seq. (2014 Repl. Vol. & 2018 Supp.).

The Respondent was charged under the following provisions of Health Occ. § 14-5B-14 (a):

Subject to the hearing provisions of § 14-405 of this title, a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license, if the applicant or licensee:

(3) Is guilty of unprofessional or immoral conduct in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance;

...

(4) Is professionally, physically, or mentally incompetent;

...

(8) Provides professional services while:

(i) Under the influence of alcohol[.]

On September 25, 2019, Panel B was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on negotiations occurring as a result of the DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

I. BACKGROUND

1. At all times relevant hereto, the Respondent was and is licensed to practice radiography in the State of Maryland. The Respondent was originally licensed to practice radiography in Maryland on December 20, 1991, under license number R02592. The Respondent’s license expires on April 30, 2021.
2. At all times relevant hereto, the Respondent was employed as an MRI Technologist at a hospital in Maryland (“the Facility”)¹, from approximately March 2014, through April 3, 2019, at which time she resigned her position.
3. The Respondent is currently employed as a Staff MRI Technologist at a different hospital in Maryland where she began employment in May 2019.
4. On April 4, 2019, the Board received a Mandated 10-Day Report² from the Facility documenting that the Respondent resigned her employment in lieu of

¹ For confidentiality and privacy purposes, the names of individuals and facilities involved in this case are not disclosed in this document. The Respondent may obtain the names of all individuals and facilities referenced in this document by contacting the administrative prosecutor.

² Md. Code Ann. Health Occ. §§14-5B-15 requires that within 10 days of an action hospitals report any action taken against a licensee which limits, reduces, otherwise changes, or terminates any licensee for any reason that might be grounds for disciplinary action under Health Occ. § 14-5B-14.

termination after testing positive for alcohol on or about March 11, 2019, following a “for-cause” Fitness for Duty (“FFD”) evaluation.

II. BOARD INVESTIGATION

5. The Board opened a full investigation based on the information received in the Mandated 10-Day Report.
6. On or about April 11, 2019, Board staff sent a subpoena to the Facility for the Respondent’s complete personnel file, which the Board received on or about May 14, 2019.
7. A review of the Respondent’s personnel file revealed that on March 11, 2019, the Respondent’s Supervisor (“the Supervisor”) referred the Respondent for an FFD evaluation due to suspicion that the Respondent was under the influence while on duty. The Supervisor stated that he observed the Respondent make several mistakes while scanning a patient’s spine and described her behavior as “clearly impaired.” The FFD evaluation report included a section entitled Employee’s Summary which reads, “I was intoxicated yesterday...I drank a few beers before coming into work...my manager felt I was out of sorts, not my normal self...”
8. The FFD evaluation included laboratory testing, the results of which indicated that the Respondent tested positive for alcohol at 0.24g/dl, with a collection date of March 11, 2019.

9. On or about May 24, 2019, Board staff sent an initial contact letter notifying the Respondent that a full investigation had been opened and requesting a written response within ten business days.
10. On or about June 3, 2019, Board staff received the Respondent's written response and other materials as directed by the initial contact letter. In her written response, the Respondent stated that on March 11, 2019, she "did have a few drinks" but thought that it would be out of her system before she began her shift.
11. On or about June 12, 2019, Board staff conducted an interview under oath with the Supervisor.
12. During the interview the Supervisor stated that on March 11, 2019, another technician on his team asked him to come observe the Respondent, whom they believed was acting strangely. The Supervisor then observed the Respondent conducting a scan of a patient. He observed that her positioning of the scan was incorrect and asked her to repeat it; she repeated the scan and achieved the exact same incorrect positioning result. The Supervisor stated that he thought that it was odd for the Respondent to repeat the same mistake given the Respondent's level of experience. Based on these observations he asked her to step aside and asked her if she was feeling alright. The Respondent stated that she was fine but the Supervisor was not convinced by her response and asked if she needed to be sent for an FFD evaluation. The Supervisor stated that she responded "Please do not send me for a fitness-for-duty." At this point the Supervisor asked the

Respondent if she would fail, to which she responded “I might.” At that point he sent her for the FFD evaluation.

13. The Supervisor escorted the Respondent to have the FFD evaluation administered. The Supervisor stated that at this point it appeared that she was “clearly under the influence of something.” The two of them arrived at the waiting room where the FFD would be administered and continued conversing. The Supervisor stated that at this point the Respondent admitted that she had been drinking, after which he did not ask her any further questions, and the FFD was subsequently administered and returned a positive result for alcohol.
14. On June 17, 2019, Board staff conducted an interview with the Respondent under oath.
15. The Respondent stated that on the night prior to the incident she did some drinking, but decided to report to work the next day for her shift at approximately 3:00 pm on March 11, 2019 because she did not want to leave her co-workers short-staffed. When she arrived at work her coworkers noticed that her behavior was abnormal, and she was ultimately sent for an FFD where a urine test was conducted which came back positive for alcohol.
16. The Respondent stated that she began drinking the prior evening. She stated that she drank “over the night and then in the morning around 10 or so.” When asked what she had been drinking she stated that in the morning she drank two beers pretty quickly to relieve some anxiety that she was experiencing. The previous evening she began drinking vodka shots at approximately 5:00 or 6:00 pm. She

further stated that she stayed awake all night and continued to drink “maybe four or five” drinks throughout the evening.³

17. The Respondent was asked whether she worked with any patients on the day in question and responded that she did not. The Respondent was asked about the Supervisor’s observations that she was improperly scanning a patient prior to her being pulled aside; she responded that she had no such recollection. The Respondent further stated that she did not recall telling the Supervisor that she thought she would fail the FFD, nor did she recall admitting to him that she had been drinking.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel B concludes as a matter of law that the Respondent is guilty of unprofessional or immoral conduct in the practice of radiography, in violation of Health Occ. §14-5B-14(a)(3); is professionally, physically, or mentally incompetent, in violation of Health Occ. §14-5B-14(a)(4); and provided professional services while under the influence of alcohol, in violation of Health Occ. §14-5B-14(a)(8)(i).

ORDER

It is thus by Disciplinary Panel B of the Board, hereby:

ORDERED that the Summary Suspension imposed on July 9, 2019, and affirmed on August 29, 2019, is terminated, as it is superseded by this Order; and it is further

³ Additional relevant information was disclosed by the Respondent that has not been specifically referenced in this document for confidentiality and privacy purposes.

ORDERED that the Respondent's license to practice radiography is **SUSPENDED**⁴ for a minimum of **SIX (6) MONTHS**.⁵ During the suspension, the Respondent shall comply with the following terms and conditions of the suspension:

The Respondent shall enroll in the Maryland Professional Rehabilitation Program (MPRP) as follows:

- (a) Within 5 business days, the Respondent shall contact MPRP to schedule an initial consultation for enrollment;
- (b) Within 15 business days, the Respondent shall enter into a Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP;
- (c) the Respondent shall fully and timely cooperate and comply with all MPRP's referrals, rules, and requirements, including, but not limited to, the terms and conditions of the Participant Rehabilitation Agreement(s) and Participant Rehabilitation Plan(s) entered with MPRP, and shall fully participate and comply with all therapy, treatment, evaluations, and screenings as directed by MPRP;
- (d) the Respondent shall sign and update the written release/consent forms requested by the Board and MPRP, including release/consent forms to authorize MPRP to make verbal and written disclosures to the Board and to authorize the Board to disclose relevant information from MPRP records and files in a public order. The Respondent shall not withdraw her release/consent;
- (e) the Respondent shall also sign any written release/consent forms to authorize MPRP to exchange with (i.e., disclose to and receive from) outside entities (including all of the Respondent's current therapists and treatment providers) verbal and written information concerning the Respondent and to ensure that MPRP is authorized to receive the medical records of the

⁴ During the suspension period, the Respondent shall not:

- (1) practice radiography;
- (2) take any actions after the effective date of this Order to hold herself out to the public as a current provider of radiography services; or
- (3) perform any other act that requires an active radiography license.

⁵ If the Respondent's license expires during the period of the suspension, the suspension and any conditions will be tolled.

Respondent, including, but not limited to, mental health and drug or alcohol evaluation and treatment records. The Respondent shall not withdraw her release/consent;

(f) the Respondent's failure to comply with any of the above terms or conditions including terms or conditions of the Participant Rehabilitation Agreement(s) or Participant Rehabilitation Plan(s) constitutes a violation of this Consent Order; and it is further

ORDERED that the Respondent shall not apply for early termination of suspension; and it is further

ORDERED that after a minimum period of six months, if the Respondent has fully and satisfactorily complied with all terms and conditions of the suspension and if MPRP finds, and notifies the Board, that the Respondent is safe to return to the practice of radiography, the Respondent may submit a written petition to the disciplinary panel to terminate the suspension of the Respondent's license. The Respondent may be required to appear before the disciplinary panel to discuss her petition for termination. If the disciplinary panel determines that it is safe for the Respondent to return to the practice of radiography, the suspension will be terminated through an order of the disciplinary panel. Upon termination, the Respondent will be placed on **PROBATION** for a minimum period of **THREE (3) YEARS**, and the disciplinary panel may impose, at that time, any probationary terms and conditions it deems appropriate on the Respondent's return to practice, including, but not limited to, continuation of the Respondent's enrollment in MPRP. If the disciplinary panel determines that it is not safe for the Respondent to return to the practice of radiography, the suspension shall be continued through an order of the

disciplinary panel until there is a determination by the disciplinary panel that it is safe for the Respondent to return to practice; and it is further

ORDERED that, if the Respondent allegedly fails to comply with any term or condition imposed by this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If the disciplinary panel determines there is a genuine dispute as to a material fact, the hearing shall be before an Administrative Law Judge of the Office of Administrative Hearings followed by an exceptions process before a disciplinary panel; and if the disciplinary panel determines there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before a disciplinary panel; and it is further

ORDERED that after the appropriate hearing, if the disciplinary panel determines that the Respondent has failed to comply with any term or condition imposed by this Consent Order, the disciplinary panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend with appropriate terms and conditions, or revoke the Respondent's license to practice radiography in Maryland. The disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine on the Respondent; and it is further

ORDERED that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that the effective date of the Consent Order is the date the Consent Order is signed by the Executive Director of the Board or her designee. The Executive

Director or her designee signs the Consent Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Consent Order; and it is further

ORDERED this Consent Order is a public document. See Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

10/04/2019
Date

Signature on File

Christine A. Farrelly, Executive Director
Maryland State Board of Physicians

CONSENT

I, Elizabeth L. Myers, Radiographer, assert that I am aware of my right to consult with and be represented by counsel in considering this Consent Order and in any proceedings that would otherwise result from the charges currently pending. I have chosen to proceed without counsel and I acknowledge that the decision to proceed without counsel is freely and voluntarily made.

By this Consent, I agree to be bound by this Consent Order and all its terms and conditions and understand that the disciplinary panel will not entertain any request for amendments or modifications to any condition.

I assert that I am aware of my right to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. § 14-405 and Md. Code Ann., State Gov't §§ 10-201 et seq. concerning the pending charges. I waive this right and have elected to sign this Consent Order instead.

I acknowledge the validity and enforceability of this Consent Order as if entered after the conclusion of a formal evidentiary hearing in which I would have had the right to

counsel, to confront witnesses, to give testimony, to call witnesses on my behalf, and to all other substantive and procedural protections as provided by law. I waive those procedural and substantive protections. I acknowledge the legal authority and the jurisdiction of the disciplinary panel to initiate these proceedings and to issue and enforce this Consent Order.

I voluntarily enter into and agree to comply with the terms and conditions set forth in the Consent Order as a resolution of the charges. I waive any right to contest the Findings of Fact and Conclusions of Law and Order set out in the Consent Order. I waive all rights to appeal this Consent Order.

I sign this Consent Order, without reservation, and fully understand the language and meaning of its terms.

09/30/2019
Date

Signature on File

Elizabeth L. Myers, Radiographer
Respondent

NOTARY

STATE OF Maryland
CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 30 day of September 2019, before me, a Notary Public of the foregoing State and City/County, personally appeared Elizabeth L. Myers, Radiographer, and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Brian D. Smith
Notary Public

My Commission expires: 05/20/2023

